

SENATE BILL REPORT

SB 5715

As Reported By Senate Committee On:
Financial Institutions & Insurance, February 27, 2007

Title: An act relating to persons selling, soliciting, or negotiating insurance.

Brief Description: Concerning persons selling, soliciting, or negotiating insurance.

Sponsors: Senators Benton, Berkey, Hobbs, Prentice, Hatfield, Franklin and Shin; by request of Insurance Commissioner.

Brief History:

Committee Activity: Financial Institutions & Insurance: 2/13/07, 2/27/07 [DPS].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: That Substitute Senate Bill No. 5715 be substituted therefor, and the substitute bill do pass.

Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Benton, Ranking Minority Member; Franklin, Hatfield, Parlette and Schoesler.

Staff: Diane Smith (786-7410)

Background: An insurance agent is appointed and paid by an insurance company to place the insured's insurance with that company. The insurance agent is under a contract of agency with the insurance company. An insurance broker is paid a fee by the insured to place that person's insurance with insurance companies.

Both agents and brokers must be licensed and are regulated by the Office of Insurance Commissioner (OIC). A licensee may be both an agent and a broker. An agent licensed as a broker for property and casualty insurance may receive a commission payment from the insurer or a fee payment from the insured, or both. If both are received, the full amount of compensation must be disclosed in writing to the insured by the agent-broker.

Both agents and brokers must submit fingerprints during the licensing process.

Laws applying to insurance agents and to insurance brokers are different in some respects. The differences include the requirement for agents to be appointed by insurance companies. The agent's license is valid until suspended or revoked or until the appointment ceases.

Brokers differ from agents in that brokers must have at least two years of experience as an agent, or other position in the insurance industry. A broker's scope of licensing is either all lines, casualty-property, or life and disability. A broker must maintain a bond in favor of the

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people of the state of Washington in the amount of \$20,000. The broker's license is valid until suspended or revoked or until a period of time elapses, as determined by the OIC.

The OIC may issue a temporary license to surviving next of kin of a deceased licensee, if the survivor is otherwise qualified except for experience or the taking of the examination.

Reciprocity between licensees of Washington and those of other states applies subject to the same obligations, limitations and supervision as though the foreign licensee were a resident of this state.

The license application fee and the fee required every two years to renew a license is \$50.

The National Association of Insurance Commissioners (NAIC) has developed a model called producer licensing. This model has been adopted by 38 states. The model replaces the name of licensees as agents and brokers with the term, producers, and has other provisions that vary from Washington law.

Summary of Bill: The terms agent and broker are replaced by the term producer. The term producer does not include title insurance agents. Applications for licenses must be on the uniform application forms and include fingerprints.

A producer may not act as an agent of an insurance company unless the producer is appointed as an agent of that insurance company. If this relationship is terminated for reasons that would be grounds for the OIC to revoke, or otherwise limit, the producer's license, a formal procedure is instituted.

The formal procedure requires that the OIC keep a file on the terminated producer. This file must include the producer's comments on the termination. The file is confidential and cannot be made subject to disclosure by a public records request. The OIC may share the file with the NAIC and other regulatory and law enforcement jurisdictions, subject to confidentiality protections.

The producer also has a duty to report to the OIC any administrative or criminal actions against him or her.

Probation of a producer is introduced as a choice the OIC may make as an alternative to revocation, suspension or refusal to renew the license.

A producer may be licensed in one or more of eight lines of authority. These lines of authority are life; disability; property; casualty; variable life and variable annuity products; personal lines; limited lines; and specialty lines. Limited lines consist of surety; limited line of credit insurance; and travel. Specialty lines consist of communications equipment or services; rental car; or any other line permitted under state law.

Provisions for the temporary license are altered by providing a 180-day term for the license. The OIC may require a suitable sponsor to assume responsibility for the temporary licensee. The bill allows a temporary licence to be given to the designee of a producer who enters active service in the armed forces.

The bonding requirements are altered. Producers who are not appointed as agents of an insurance company are required to have a bond in the amount of \$2,500 or 5 percent of the

brokered premiums in the last calendar year, whichever is greater, up to \$100,000. The bonding requirement can be met with bonding in the name of an association.

Producers must disclose their receipt of both fees and commissions when selling all types of insurance.

Reciprocity must be granted to the licensees of other states in the form of a nonresident producer license, so long as the other states' nonresident licensing provisions operate on the same basis for residents of our state. The requirement to furnish information about the identity of the nonresident includes the requirement to furnish fingerprints. However, the OIC must waive the fingerprinting requirement if the home state also requires fingerprinting.

The license application fee and the fee required every two years to renew a license are raised \$10. The new fee is \$60.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Financial Institutions & Insurance): The recommended substitute allows out-of-state title insurance agents who are unlicensed in Washington to participate in closing real estate transactions for property located in this state. It retains existing statutory language on fingerprinting for both resident and non-resident producers. It clarifies the existing statutory requirement for an agent-broker to disclose his or her receipt of both commissions and fees and extends the disclosure requirement to all lines of insurance.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: July 1, 2009.

Staff Summary of Public Testimony: PRO: The majority of the over 90,000 licensees doing business in Washington are out-of-state. This shift from in-state to out-of-state agents has taken place within the six years that Commissioner Kreidler has been in office. This bill treats all agents and brokers under the one category of producers. It provides standardization with other states which is so necessary due to this shift. The bill also facilitates the move to a paperless process which will be more efficient and less costly to all concerned while maintaining the focus on the protection of consumers. Protecting consumers is better done at the state level than at the federal level.

Disclosure of the compensation paid to insurance producers has been required here for 13 years. The only issue left is the disclosure of compensation. The three big insurance associations are in favor of the bill as it is written on this issue. Independent agents and brokers want clarity in disclosure requirements.

OTHER: There is a little itty bitty issue with the title insurance industry that concerns the real estate closings on Washington properties bought or sold by multistate companies having their corporate offices out-of-state.

Persons Testifying: PRO: Mike Kreidler, Office of the Insurance Commissioner; Mel Sorensen, Professional Insurance Agents Association, Washington Association of Health

Underwriters, National Association of Insurance and Financial Advisors; Bill Stauffacher, Independent Insurance Agents and Brokers of America.

OTHER: Stu Halsan, Washington Land Title Association.